

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEXINGTON INSURANCE COMPANY and TRAVELERS
PROPERTY CASUALTY COMPANY OF AMERICA as
subrogees of Jones Lang LaSalle Management Services, Inc.,

Case No.: 07 CV 9737
(GBD (THK))

Plaintiffs,

-against-

CROSS-CLAIMS

LOCHINVAR CORPORATION, AMBASSADOR
CONSTRUCTION CO., INC., F. DIGIACOMO & SONS,
INC., S. DIGIACOMO & SON, INC. and MANHATTAN
MECHANICAL SERVICE, INC.

Defendants.

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LOCHINVAR CORPORATION,

Third-Party Plaintiffs,

-against-

SOUTH ERIE PRODUCTION COMPANY d/b/a SEPSCO
ERIE,

Third-Party Defendants.

-----X

Defendant, **S. DiGiacomo & Son, Inc.**, by its attorneys, FRENCH & RAFTER, LLP,
as and for its Cross-Claims against Third-Party Defendant **South Erie Production Company d/b/a
Sepco Erie**, alleges as follows:

**AS AND FOR A FIRST CROSS-CLAIM AGAINST
THIRD-PARTY DEFENDANT
SOUTH ERIE PRODUCTION COMPANY d/b/a SEPSCO ERIE
DEFENDANT S. DIGIACOMO & SON ALLEGES AS FOLLOWS**

1. That if Plaintiffs sustained the damages in the manner and at the time and place alleged, and if it is found that the answering Defendant, **S. DiGiacomo & Son, Inc.** is liable to Plaintiffs herein, all of which is specifically denied, then said answering Defendant, on the basis of apportionment of responsibility for the alleged occurrence, is entitled to contribution from Third-Party Defendant, **South Erie Production Company d/b/a Sepco Erie**, for any verdict or judgment that Plaintiffs may recover against the answering Defendant.

**AS AND FOR A SECOND CROSS-CLAIM AGAINST
THIRD-PARTY DEFENDANT
SOUTH ERIE PRODUCTION COMPANY d/b/a SEPSCO ERIE
DEFENDANT S. DIGIACOMO & SON ALLEGES AS FOLLOWS**

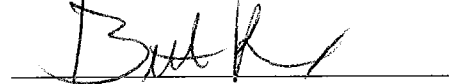
2. That if Plaintiffs sustained the damages in the manner and at the time and place alleged, and if it is found that the answering Defendant, **S. DiGiacomo & Son, Inc.** is liable herein, all of which is specifically denied, then said answering Defendant, on the basis of common-law indemnification, is entitled to indemnification from and judgment over and against Third-party Defendant, **South Erie Production Company d/b/a Sepco Erie**, for any verdict or judgment that may be recovered against the answering Defendant.

WHEREFORE, Defendant **S. DiGiacomo & Son, Inc.**, demands that in the event Defendant **S. DiGiacomo & Son, Inc.**, is liable to Plaintiff herein, then Defendant **S. DiGiacomo & Son, Inc.**, on the basis of contribution and/or on the basis of common law indemnification and/or on the basis of agreement to procure insurance, has judgment over and against Third-Party Defendant **South Erie Production Company d/b/a Sepco Erie** for all or part of any verdict or judgment which may be recovered together with the costs, disbursements and any attorneys' fees actually incurred in the defense thereof.

Dated: New York, New York
September 5, 2008

Yours, etc.,
FRENCH & RAFTER, LLP

BY:


Beth Rex (BR 2025)

Attorneys for Defendant
S. DiGiacomo & Son, Inc.
29 Broadway, 27th Floor
New York, New York
File No.: 8400.1147

TO:

Michael B. Golden (MG-0633)
Robinson & Cole, LLP
Attorneys for Plaintiffs
885 Third Avenue, Suite 2800
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(212) 451-2900

Rend, Ryan & Downes, LLP
Attorneys for Defendant/Third-Party Plaintiff
Lochinvar Corporation
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444

Hammill, O'Brien, Croutier,
Dempsey & Pender, P.C.
Attorneys for Third-Party Defendant
South Erie Production Company, Inc.
6851 Jericho Turnpike, Suite 250
P.O. Box 1306
Syosset, New York 11791
(516) 746-0707

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

SANDY PEÑA, being duly sworn, deposes and says:

That I am not a party to the within action, am over 18 years of age and reside in Queens County, New York.

That on September 5, 2008, deponent served the within **CROSS-CLAIMS** upon the attorneys and parties listed below by United States prepaid mail by placing same in a mailbox in the State of New York to:

Michael B. Golden (MG-0633)
Attorneys for Plaintiffs
885 Third Avenue, Suite 2800
New York, New York 10022
(212) 451-2900

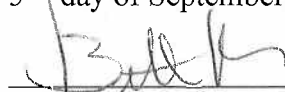
Rend, Ryan & Downes, LLP
Attorneys for Defendant/Third-Party Plaintiff
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(914) 681-0444

Hammill, O'Brien, Croutier,
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Attorneys for Third-Party Defendant
South Erie Production Company, Inc.
6851 Jericho Turnpike, Suite 250
P.O. Box 1306
Syosset, New York 11791
(516) 746-0707



SANDY PEÑA

Sworn to before me this
5TH day of September, 2008



NOTARY PUBLIC

BETH REX
Notary Public, State of New York
NO. 31-4928883
Qualified in New York County
Commission Expires April 4, 20 10

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- against -

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INC., F. DIGIACOMO & SONS, INC., S. DIGIACOMO & SON, INC. and
MANHATTAN MECHANICAL SERVICE, INC.

Defendants

CROSS-CLAIMS

FRENCH & RAFTER, LLP

Attorneys for Defendant

S. DiGiacomo & Son, Inc.

**29 BROADWAY
NEW YORK, NEW YORK 10006
TELEPHONE (212) 797-3544**